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UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF CALIFORNIA

9 MARGARITA CARREON,  
10 Plaintiff,  
11 v.  
12 NEXUS RVS, LLC, a limited  
liability company; and DOES 1  
13 through 100, inclusive,  
14 Defendants.

No. 2:20-cv-00722-JAM-KJN

**ORDER GRANTING MOTION TO  
TRANSFER VENUE**

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16 Margarita Carreon ("Plaintiff") filed suit in the Superior  
17 Court of Solano County against Nexus RVS, LLC, ("Defendant") for  
18 allegedly selling her a faulty vehicle. Not. of Removal, Exh. A,  
19 Compl., ECF No. 1-1. Soon after, Defendant removed the suit to  
20 this Court. Not. of Removal, ECF No. 1.

21 Defendant now moves to transfer this action to the Northern  
22 District of Indiana pursuant to the written warranty from  
23 Plaintiff's car purchase. Mot., ECF No. 4-1, at 2. Plaintiff  
24 Opposes. Opp'n, ECF No. 5. For the reasons set forth below, the  
25 Court GRANTS Defendant's motion to transfer.<sup>1</sup>

27 <sup>1</sup> This motion was determined to be suitable for decision without  
28 oral argument. E.D. Cal. L.R. 230(g). The hearing was  
scheduled for June 2, 2020.

1                   I. FACTUAL ALLEGATIONS AND PROCEDURAL BACKGROUND

2                   On March 30, 2019, Plaintiff purchased a new Nexus Phantom  
3 (the "RV") from Cordelia RV Center in Fairfield, California.  
4 Mot. at 2. Defendant, a limited liability company located and  
5 incorporated in Elkhart, Indiana, manufactured the RV and  
6 distributed it to Cordelia RV Center. Id. at 3.

7                   Upon purchase of the RV, Defendant provided Plaintiff with a  
8 written limited warranty that was effective at the time of sale.  
9 Id. When the RV began to exhibit problems, Plaintiff took it for  
10 warranty repairs in California. Opp'n at 1. As the problems  
11 continued, Plaintiff decided to sue Defendant in California State  
12 Court for: (1) breach of implied warranty, (2) breach of express  
13 warranty, and (3) violation of the Uniform Commercial Code  
14 ("UCC"). Compl. ¶¶ 9-28.

15                  After removing the case to this Court, Defendant now seeks  
16 to transfer this case pursuant the "Jurisdiction and Applicable  
17 Law" clause in the limited warranty. Mot. at 3. This clause  
18 provides in relevant part:

19                  Exclusive Jurisdiction for deciding any claims, demands  
20 or causes of action for defects or representations of  
21 any nature or damages due from such defects or  
22 representations shall be in the courts in the State of  
23 Manufacture and Dealer, Indiana. The laws applicable  
to any litigation, dispute, mediation, arbitration or  
any claim whatsoever arising from the sale, purchase,  
or use of the recreational vehicle shall be those of  
the State of Manufacture and Dealer, Indiana.

24 Mot. at 3.

25                   II. OPINION

26                  A. Legal Standard

27                  Under 28 U.S.C. § 1404(a), a district court may transfer a  
28 civil action to another district for the convenience of the

1 parties and in the interest of justice. The district court can  
2 transfer the action "to any district where venue is also proper  
3 [] or to any other district to which the parties have agreed by  
4 contract or stipulation." Atlantic Marine Const. Co., Inc. v.  
5 U.S. Dist. Court for Western Dist. of Texas, 571 U.S. 49, 59  
6 (2013). Normally, the district court must also evaluate both  
7 the private interests of the parties and public interest  
8 considerations. Id. at 62.

9 But when the parties have agreed to a valid forum-selection  
10 clause, the court should transfer the case to the forum  
11 specified in that clause. Id. The forum clause should be given  
12 "controlling weight" and should only be denied under  
13 "extraordinary circumstances." Id. The presence of a valid  
14 forum-selection clause changes the usual Section 1404(a)  
15 analysis in three ways. First, "the plaintiff's choice of forum  
16 merits no weight." Id. at 63. Second, the court "should not  
17 consider arguments about the parties' private interests." Id.  
18 at 64. Finally, "when a party bound by forum-selection clause  
19 flouts its contractual obligation and files suit in a different  
20 forum," the original venue's choice-of-law rules will not  
21 transfer to the new venue. Id. Plaintiff must therefore either  
22 show that the clause is invalid or that "public interest  
23 factors" make transfer inappropriate. Id.

24       B. Analysis

25       Defendant asks the Court to enforce the forum selection  
26 clause by granting the motion to transfer venue to the Northern  
27 District of Indiana. Mot. at 4. Plaintiff does not dispute the  
28 validity of the forum selection clause. See Opp'n. Instead,

1 Plaintiff opposes the transfer of venue for the following two  
2 reasons: (1) Defendant has failed to show Plaintiff's California  
3 statutory rights will be honored in Indiana, and (2) the forum  
4 selection clause is unreasonable and unjust because it places an  
5 undue burden on third party witnesses. Opp'n at 2-3. The Court  
6 disagrees with Plaintiff.

7 First, Plaintiff mistakenly relies on state law. Plaintiff  
8 argues that because her claims arise from California statutes,  
9 "Defendant bears the burden of showing that these rights can be  
10 enforced in the Northern District of Indiana." Opp'n at 2.  
11 Plaintiff relies on a California State Court of Appeals case for  
12 this contention. See Verdugo v. Alliantgroup, L.P., 237 Cal.  
13 App. 4th 141, 147 (2015). But "[f]ederal law governs the  
14 validity of a forum selection clause." TAAG Linhas Aeras de  
15 Angola v. Transamerica Airlines, Inc., 915 F.2d 1351, 1353 (9th  
16 Cir. 1990); see also O'Keeffe's Inc. v. Access Information  
17 Technologies Inc., No. 15-cv-03115-EMC, 2015 WL 6089418, at \*4  
18 n. 2 (N.D. Cal. Oct. 16, 2015) (declining to apply Verdugo  
19 because it "does not purport to apply [Section 1404(a)]"). And  
20 in federal law, "forum selection clauses are prima facie valid  
21 and should not be set aside unless the party challenging one can  
22 'clearly show that enforcement would be unreasonable and  
23 unjust.'" Id. (citing M/S Bremen v. Zapata Off-Shore Co., 407  
24 U.S. 1, 15 (1972)).

25 Plaintiff attempts to argue the forum clause is in fact  
26 "unreasonable and unjust" because "the majority of the witnesses  
27 and other evidence are located in California." Opp'n at 3. But  
28 Plaintiff misapplies the relevant standards for what is

1    "unreasonable and unjust."

2 A forum selection clause is unreasonable and unjust in  
3 three situations: (1) where the clause was a result of fraud or  
4 overreaching, (2) "if enforcement would contravene a strong  
5 public policy of the forum in which suit is brought," and (3) if  
6 it is so inconvenient that it deprives a party of their day in  
7 court. Bremen, 407 U.S. at 15-19. The "party challenging the  
8 forum selection clause bears a 'heavy burden' of establishing  
9 the existence of one of the aforementioned grounds for rejecting  
10 enforcement." Jones, 211 F.3d at 497. Plaintiff has not met  
11 this heavy burden.

12 Plaintiff does not argue the clause was a result of fraud  
13 or overreaching, nor does she argue it would contravene strong  
14 public policy of the forum in which it is sought. See Opp'n.  
15 And while she does argue transfer would be inconvenient, she  
16 does not show it "will be so gravely difficult and inconvenient  
17 that [she] will for all practical purposes be deprived of [her]  
18 day in court." Bremen, 407 U.S. at 18. The inconveniences  
19 Plaintiff may suffer were "clearly foreseeable at the time of  
20 contracting." Id. Because Plaintiff has not shown the forum  
21 clause is unreasonable or unjust, the clause should control.  
22 Id. at 15. Accordingly, Defendant's motion for transfer of  
23 venue is GRANTED.

### III. ORDER

25 For the reasons set forth above, the Court GRANTS  
26 Defendant's Motion to Transfer Venue.

27 As a final matter, Defendant's reply brief is seven pages  
28 over the Court's page limit. See Reply. On April 8, 2020, the

1 Court issued its Order re Filing Requirements limiting reply  
2 memoranda, for motions other than those under Federal Rule of  
3 Civil Procedure 56 and 65, to five pages. Order RE Filing Req.  
4 ("Order"), ECF No. 2-2, at 1. As stated in the Order, the Court  
5 does "not consider any arguments made past the page limit."  
6 Order at 1. Moreover, page limit violations result in monetary  
7 sanctions against counsel in the amount of \$50.00 per page. Id.  
8 Defendant's counsel must therefore send a check payable to the  
9 Clerk for the Eastern District of California for \$350.00 no  
10 later than seven days from the date of this order.

11 IT IS SO ORDERED.

12 Dated: July 17, 2020

  
13 JOHN A. MENDEZ,  
14 UNITED STATES DISTRICT JUDGE

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